

READING & BATES EXPLORATION CO. v. ROBERT FREDERICH DIONNE

[C.A. (Chua, Kulasekaram and D'Cotta JJ.) January 20, 1978]
[Singapore — Civil Appeal No. 48 of 1977]

Practice and Procedure — Service of Writ of Summons — Service on agent or manager — Whether company in Singapore are Singapore agents of foreign company — R.S.C. 1970, O. 10 r. 2.

The respondent had issued a writ against the appellants claiming damages for wrongful dismissal. The respondent applied for an order that service of the writ might be effected on Reading & Bates Singapore Private Ltd. as agents of the defendants, and that a copy be sent by post to the defendants at their registered address in the United States. An order in terms of the summons was made by the Assistant Registrar. Subsequently the respondents applied that the writ and service of the writ be set aside and the Assistant Registrar made an order for the service of the writ to be set aside. An appeal to the High Court was allowed by the Chief Justice and the appellants then appealed to the Court of Appeal.

Held: the documents produced in the case clearly showed that Reading & Bates Singapore Private Ltd. were the agents of the defendants in Singapore and service of writ of summons was therefore rightly authorised on them.

COURT OF APPEAL.

H. Elias for the appellants.

B. Ganesh Moorthy for the respondents.

Chua J. (delivering the judgment of the Court): The plaintiff, Robert Frederick Dionne, (the respondent in this appeal) issued a Writ of Summons against the defendants, (the appellants in this appeal) claiming damages for wrongful dismissal.

The plaintiff applied to the court by summons for an order that service of the writ might be effected on Reading & Bates Singapore Private Ltd. as agents of the defendants and that a copy of the writ and a copy of the order to be made authorising service of the writ on the defendants' agents be sent by post to the defendants at their registered address in the United States of America and that the defendants enter an appearance within twenty one days of the service.

On January 10, 1977, the Assistant Registrar made an order in terms of the summons.

The defendants then applied to the court by summons for an order "that the Writ of Summons beginning this action and/or the service of the said writ, the order herein dated January 10, 1977, and all subsequent proceedings be set aside."

On May 13, 1977, the summons of the defendants came before the Acting Registrar who made an order "that the order herein dated the 10th day of January, 1977, and the service of the said writ on Reading & Bates Singapore Private Limited on the 11th day of February, 1977, be and are hereby set aside."

The plaintiff appealed against the Acting Registrar's order.

The appeal came before the learned Chief Justice who allowed the appeal on July 11, 1977.

The defendants now appeal against the decision of the learned Chief Justice.

A Order 10 rule 2 of the Rules of the Supreme Court, 1970, provides: —

"2.—(1) Where the court is satisfied on an *ex parte* application that—

(a) an action relates to any business or work against a person who does not reside within Singapore or who is absent from Singapore; and

B (b) an agent or manager has, at the time of service, personally the control or management of such business or work for such person within Singapore; and

(c) at the time of the application either the agent's or manager's authority has not been determined, or he is still in business relations with the principal,

the court may authorize service of a writ of summons to be effected on such agent or manager instead of the principal."

C The short facts are these. By a written agreement entered into in Singapore on April 7, 1972, between Reading & Bates and the plaintiff, the plaintiff was employed as a welder to work on an oil rig called "M.G. Hulme" which is in Indonesian waters. The plaintiff's salary, living allowance and bonus totalled US\$1,335 p.m. (called "Total Monthly Compensation" in the agreement). The agreement was signed by the parties at the office of Reading & Bates Singapore Private Ltd. Thereafter by endorsements on the said agreement (1) the monthly compensation of the plaintiff was increased with effect from April 1, 1973; (2) the classification of the plaintiff was changed to that of motorman with effect from March 1, 1973; (3) the monthly compensation of the plaintiff was further increased with effect from January 1, 1974, and (4) Family Transportation was extended to the plaintiff's wife and son with effect from January 1, 1974.

D In April 1974, the plaintiff was served an Inter-Office Note addressed to him from one R.M. Fellers, Jakarta, dated April 8, 1974, purporting to terminate his service. Copies of the note were sent to three persons including one G. Pool, Personnel Supervisor, Reading & Bates Singapore Private Ltd. This note was served on the plaintiff by Reading & Bates Singapore Private Ltd.

E On July 16, 1975, the plaintiff's solicitors wrote to Reading & Bates Singapore Private Ltd. demanding the payment of 30 days salary in lieu of leave pay plus either one-way tickets to the United States for the plaintiff and his family or cash in lieu thereof plus all bonus payments deducted during the plaintiff's period of service. The letter further stated that the plaintiff had decided to take action for wrongful dismissal but would be prepared not to pursue this claim if payment as demanded was made in the course of the next fortnight. The plaintiff's solicitors again wrote to Reading & Bates Singapore Private Ltd. on July 31, 1975, demanding the sum of \$19,462.50 made up of (1) costs of one-way air tickets to the United States for the plaintiff and his family; (2) bonus due and payable and (3) 30 days salary in lieu of leave. The letter also warned that if payment of the \$19,462.50 was not made within seven days the plaintiff would commence legal proceedings.

F On August 16, 1975, Reading & Bates Singapore Private Ltd. replied that "Reading & Bates must reject the demand of your client as being without basis and urge you to reconsider the claim in the light of the information imparted below." The letter then

went on to explain the circumstances leading to the dismissal of the plaintiff. The letter concluded thus:

"Apologies are extended for the length of this response, but the company wished to bring the foregoing to your attention in the hope that misinformation provided you could be corrected. We trust that your further consideration of this explanation will result in the withdrawal of your client's claim."

This letter was signed by D.L. McIntire, Regional Personnel Supervisor.

On September 16, 1975, the plaintiff's solicitors replied to Reading & Bates Singapore Private Ltd. intimating that the plaintiff's purported dismissal on April 8, 1974, was ineffective and invalid and informed them that if no satisfactory and reasonable proposals were forthcoming within the next seven days in settlement of the plaintiff's claim they had firm instructions to commence legal proceedings against Reading & Bates and asking them for the name of their solicitors who would accept service.

On September 30, 1975, Reading & Bates Singapore Private Ltd. replied as follows:

"Your letter of September 16, 1975, has been received in this office and forwarded in the same manner.

I am no longer in a position to relay comments and am advised that should you desire to pursue this matter further, you should inquire directly of Mr. Dionne's ex-employer:

Reading & Bates Exploration Co.,
1200 Milan, Suite 3200,
Houston, Texas 77002,
U.S.A."

The letter was signed by D.L. McIntire, Regional Personnel Supervisor.

On November 12, 1976, the plaintiff issued the Writ of Summons against the defendants, Reading & Bates Exploration Co.

The plaintiff says that Reading & Bates Singapore Private Ltd. are the Singapore agents of the defendants.

Peter M. Carver, the Secretary of Reading & Bates Singapore Private Ltd. in his affidavit states that the defendants are a company incorporated in the State of Oklahoma, United States of America, and they have a branch in Indonesia; that the defendants are engaged in offshore exploration, drilling development work in Indonesia and they do not do any work or business in Singapore; that they do not maintain any offices in Singapore nor are there any persons employed by them to do any work in Singapore; that the defendants do not maintain any tenancies of any premises in Singapore nor do they have any telex or telephone accounts in Singapore; that no person is employed by the defendants to do any general work for them in Singapore but it is possible for their personnel to be in Singapore. He further states that Reading & Bates Singapore Private Ltd. are not agents of the defendants; that the company do not do the defendants' work or business in Singapore, nor do they have any control or management of the defendants' work or business in Singapore; that the company do not have any control or management of the defendants' work or business in any way and in any territory.

A The question is, are Reading & Bates Singapore Private Ltd. agents of the defendants in Singapore?

The evidence disclosed in the affidavits filed is this. A photostat copy of the written agreement (with the endorsements) entered into between the plaintiff and Reading & Bates is exhibited to the affidavit of the plaintiff sworn to on November 9, 1976, and is marked "RFD 1". The endorsements increasing the plaintiff's monthly compensation with effect from April 1, 1973, and changing the classification of the plaintiff with effect from March 1, 1973, were signed on behalf of Reading & Bates by a person and he was not the same person who signed the agreement on April 7, 1972, on behalf of Reading & Bates. The endorsements increasing the plaintiff's monthly compensation with effect from January 1, 1974, and extending Family Transportation to the plaintiff's wife and son were signed on behalf of Reading & Bates by G.E. Pool on January 15, 1974. "G.E. Pool" is George E. Pool, the Personnel Supervisor in Reading & Bates Singapore Pte. Ltd.

D The plaintiff's salary was paid through the Bank of America, Orchard Road Branch in Singapore as provided for in the agreement. On July 31, 1972, Reading & Bates Singapore Pte. Ltd. advanced \$50 to the plaintiff and a copy of the invoice was sent to Houston (Exhibit RFD2).

E A copy of the Inter-Office Note dated April 8, 1974, was sent to G. Pool the Personnel Supervisor in Reading & Bates Singapore Private Ltd. (Exhibit RFD3).

The exhibits RFD1, RFD2 and RFD3 and the letter of Reading & Bates Singapore Private Ltd. dated August 16, 1975, clearly show that Reading & Bates Singapore Private Ltd. are the agents of the defendants in Singapore.

Counsel for the appellants takes a further point that the High Court in Singapore has no jurisdiction in this matter and that the writ should be set aside on the ground that the cause of action did not arise in Singapore. We cannot entertain this submission. The appellants had applied to the Registrar to set aside the writ on the ground of want of jurisdiction and the Registrar did not make the order prayed for but made an order setting aside the service of the writ on Reading & Bates Singapore Private Ltd. The appellants have not appealed against the Registrar's order.

H For these reasons we dismiss the appeal with costs.

Appeal dismissed.

Solicitors: *Drew & Napier; David Marshall.*

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